

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Swimming Facility Act is amended by changing Sections 2, 3, 3.12, 4, 5, 6, 7, 8, 13, 14, 21, and 23 and by adding Sections 3.13, 15.1, 15.2, and 16.1 as follows:

(210 ILCS 125/2) (from Ch. 111 1/2, par. 1202)

Sec. 2. Legislative purpose. It is found that there exists, and may in the future exist, within the State of Illinois public swimming pools, spas, water slides, public bathing beaches, and other swimming facilities ~~aquatic features~~ which are substandard in one or more important features of safety, cleanliness or sanitation. Such conditions adversely affect the public health, safety and general welfare of persons.

Therefore, the purpose of this Act is to protect, promote and preserve the public health, safety and general welfare by providing for the establishment and enforcement of minimum standards for safety, cleanliness and general sanitation for all swimming pools, spas, water slides, public bathing beaches, and other aquatic features now in existence or hereafter constructed, developed, or altered and to provide for inspection and licensing of all such facilities.

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/3) (from Ch. 111 1/2, par. 1203)

Sec. 3. Definitions. As used in this Act, unless the context otherwise requires, the terms specified in Sections 3.01 through 3.13 ~~3.12~~ have the meanings ascribed to them in those Sections.

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/3.12)

Sec. 3.12. Swimming facility. "Swimming Facility" means a swimming pool, spa, public bathing beach, water slide, lazy river, spray pool, or other ~~similar~~ aquatic feature that exists for the purpose of providing recreation or therapeutic services to the public. It does not include isolation or flotation tanks.

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/3.13 new)

Sec. 3.13. Spray pool. "Spray pool" means an aquatic recreational facility that is not a swimming pool and that has structures or fittings for spraying, dumping, or shooting water. The term does not include facilities having as a source of water a public water supply that is regulated by the Illinois Environmental Protection Agency or the Illinois Department of Public Health and that has no capacity to recycle water.

(210 ILCS 125/4) (from Ch. 111 1/2, par. 1204)

Sec. 4. License to operate. After May 1, 2002, it shall be unlawful for any person to open, establish, maintain or operate a swimming facility ~~pool, water slide, or bathing beach~~ within this State without first obtaining a license therefor from the Department. ~~After May 1, 2003, it shall be unlawful for any person to open, establish, maintain, or operate a spa within this State without first obtaining a license from the Department. Licenses for swimming facilities shall expire May 1, next following the swimming season for which the license was issued, except that an original license for a swimming facility issued after February 1 and before May 1 shall expire on May 1 of the following year. Licenses for indoor pools that expire December 1, 2001 shall be renewed for a \$75 fee for a license that will expire on May 1, 2003.~~ Applications for original licenses shall be made on forms furnished by the Department. Each application to the Department shall be signed by the applicant and accompanied by an affidavit of the applicant as to the truth of the application and, except in the case of an application by an organization incorporated under the General Not for Profit Corporation Act, as amended, by the payment of a license application fee of \$50. License fees are not refundable. Each application shall contain: the name and address of the applicant, or names and addresses of the partners if the applicant is a partnership, or the name and

addresses of the officers if the applicant is a corporation or the names and addresses of all persons having an interest therein if the applicant is a group of individuals, association, or trust; and the location of the swimming facility. A license shall be valid only in the possession of the person to whom it is issued and shall not be the subject of sale, assignment, or other transfer, voluntary, or involuntary, nor shall the license be valid for any premises other than those for which originally issued. Upon receipt of an application for an original license the Department shall inspect such swimming facility to insure compliance with this Act.

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/5) (from Ch. 111 1/2, par. 1205)

Sec. 5. Permit for construction or major alteration. No swimming facility shall be constructed, developed, installed, or altered in a major manner until plans, specifications, and other information relative to such swimming facility and appurtenant facilities as may be requested by the Department are submitted to and reviewed by the Department and found to comply with minimum sanitary and safety requirements and design criteria, and until a permit for the construction or development is issued by the Department. ~~Construction permits for spas are not required until January 1, 2003.~~ Permits are valid for a period of one year from date of issue. They may be

reissued upon application to the Department and payment of the permit fee as provided in this Act.

The fee to be paid by an applicant, other than an organization incorporated under the General Not for Profit Corporation Act, as now or hereafter amended, for a permit for construction, development, major alteration, or installation of each swimming facility is \$50, which shall accompany such application.

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/6) (from Ch. 111 1/2, par. 1206)

Sec. 6. License renewal. Applications and fees for renewal of the license shall be made in writing by the holder of the license, on forms furnished by the Department and, except in the case of an application by an organization incorporated under the General Not for Profit Corporation Act, as now or hereafter amended, shall be accompanied by a license application fee of \$50, which shall not be refundable, and shall contain any change in the information submitted since the original license was issued or the latest renewal granted. In addition to any other fees required under this Act, a late fee of \$20 shall be charged when any renewal application is received by the Department after the license has expired; however, educational institutions and units of State or local government shall not be required to pay late fees. If, after inspection, the Department is satisfied that the swimming

facility is in substantial compliance with the provisions of this Act and the rules and regulations issued thereunder, the Department shall issue the renewal license.

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/7) (from Ch. 111 1/2, par. 1207)

Sec. 7. Conditional license. If the Department finds that the facilities of any swimming facility for which a license is sought are not in compliance with the provisions of this Act and the rules ~~and regulations~~ of the Department relating thereto, but may operate without undue prejudice to the public, the Department may issue a conditional license setting forth the conditions on which the license is issued, the manner in which the swimming facility fails to comply with the Act and such rules ~~and regulations~~, and shall set forth the time, not to exceed 3 years, within which the applicant must make any changes or corrections necessary to fully comply with this Act and the rules and regulations of the Department relating thereto. No more than 3 such consecutive annual conditional licenses may be issued.

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/8) (from Ch. 111 1/2, par. 1208)

Sec. 8. Payment of fees; display of licenses. All fees and penalties generated under the authority of this Act shall be deposited into the Facility Licensing Fund and, subject to

appropriation, shall be used by the Department in the administration of this Act. All fees and penalties shall be submitted in the form of a check or money order, or by other means authorized by the Department. All licenses provided for in this Act shall be displayed in a conspicuous place for public view, within or on such premises. In case of revocation or suspension, the owner or operator or both shall cause the license to be removed and to post the notice of revocation or suspension issued by the Department.

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/13) (from Ch. 111 1/2, par. 1213)

Sec. 13. Rules. The Department shall promulgate, publish, adopt and amend such rules ~~and regulations~~ as may be necessary for the proper enforcement of this Act, to protect the health and safety of the public using such pools and beaches, spas, and other appurtenances, and may, when necessary, utilize the services of any other state agencies to assist in carrying out the purposes of this Act. These rules ~~regulations~~ shall include but are not limited to design criteria for swimming facility areas and bather preparation facilities, standards relating to sanitation, cleanliness, plumbing, water supply, sewage and solid waste disposal, design and construction of all equipment, buildings, rodent and insect control, communicable disease control, safety and sanitation of appurtenant swimming facilities. The rules ~~regulations~~ must include provisions for

the prevention of bather entrapment or entanglement at new and existing swimming facilities. ~~The Department may adopt less stringent requirements for spas existing prior to January 1, 2003 than for new spas, provided minimum safety features, including provisions to protect against bather entrapment, are provided.~~ Bather preparation facilities consisting of dressing room space, toilets and showers shall be available for use of patrons of swimming facilities, except as provided by Department rules ~~regulations~~.

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/14) (from Ch. 111 1/2, par. 1214)

Sec. 14.

Whenever the Department determines that there are reasonable grounds to believe that there has been violation of any provision of this Act or the rules ~~and regulations~~ issued hereunder, the Department shall give notice of such alleged violation to the person to whom the license was issued, as herein provided. Such notice shall:

(a) be in writing;

(b) include a statement of the reasons for the issuance of the notice;

(c) (Blank) ~~allow reasonable time as determined by the Department for the performance of any act it requires;~~

(d) be served upon the owner, operator or licensee as the case may require; provided that such notice or order shall be

deemed to have been properly served upon such owner, operator or licensee when a copy thereof has been sent by registered or certified mail to his last known address as furnished to the Department; or, when he has been served with such notice by any other method authorized by the laws of this State;

(e) (Blank) ~~contain an outline of remedial action, which, if taken, will be required to effect compliance with the provisions of this Act and the rules and regulations issued hereunder.~~

(Source: P.A. 78-1149.)

(210 ILCS 125/15.1 new)

Sec. 15.1. Violations at facilities.

(a) If the Department finds violations at swimming facilities requiring licensure under this Act, the Department shall issue a written report or notice of the violations. In accordance with subsections (b), (c), and (d), each violation shall be categorized as either Type "A", Type "B", or Type "C".

(b) Type "A" Violation. The situation, condition, or practice constituting a Type "A" violation shall be abated or eliminated immediately, unless a fixed period of time, not exceeding 10 days, as determined by the Department and specified in the notice of violation or inspection report, is required for correction. Type "A" violations shall include, but not be limited to:

(1) Inoperable gauges or flowmeters.

(2) The failure to maintain appropriate water quality within 20% of standard.

(3) The failure to maintain or provide operation reports.

(4) The failure to provide and maintain necessary safety equipment prescribed by rule.

(5) The failure to maintain cleanliness of the facility (cracks, leaks, lint, dirt, and sediment).

(6) The improper use of starting platforms.

(7) The failure to maintain equipment in proper work order (including, but not limited to, skimmers, pumps, and chlorinators), such that the public is not endangered.

(8) The failure to post Patron Regulations and Bather Load signs.

(c) Type "B" Violation. At the time of issuance of a notice of a Type "B" violation, the Department shall request a plan of correction that is subject to the Department's approval. The facility shall have 10 days after receipt of a notice of violation in which to prepare and submit a plan of correction. The Department may extend this period up to 30 days where correction involves substantial capital improvement. The plan shall include a fixed time period, not to exceed 90 days, within which violations are to be corrected. If the Department rejects a plan of correction, it shall send notice of the rejection and the reason for the rejection to the facility. The facility shall have 10 days after receipt of the notice of

rejection in which to submit a modified plan. If the modified plan is not timely submitted, or if the modified plan is rejected, the facility shall follow an approved plan of correction imposed by the Department. Type "B" violations shall include, but not be limited to:

(1) Ongoing repeat Type "A" violations not corrected in accordance with a notice or inspection report.

(2) The failure to submit a Drowning and Injury Report within 24 hours.

(3) The failure to provide a lifeguard or a warning sign as required by the rules.

(4) The failure to maintain water quality in accordance with Section 820.320 of Title 77 of the Illinois Administrative Code, and in excess of that allowed for in a Type "A" violation.

(5) The failure to properly secure the pool area or the equipment/storage area.

(6) The failure to maintain any operational reports.

(7) The failure to obey assigned bather load.

(8) The failure to properly display a Department-issued license.

(d) Type "C" Violation. Type "C" violations include those violations that may lead to serious injury or death of patrons, employees, or the general public. Upon finding a Type "C" violation at a facility, the Department shall immediately take such actions as necessary to protect public health, including

ordering the immediate closure of the facility, ordering the abatement of conditions deemed dangerous by the Department, or ordering the cessation of any practice deemed dangerous or improper by the Department. Type "C" violations shall include, but not be limited to:

- (1) The failure to obtain a license prior to operating.
- (2) The failure to construct the pool in accordance with the Department-issued permit to construct.
- (3) The failure to secure a permit to alter the pool.
- (4) The failure to close the pool in accordance with the rules.
- (5) The failure to obey any lawful order of the Department.
- (6) The failure to provide access to the facility by the Department or any duly appointed agent thereof.
- (7) The failure to post a Department-issued closure order.
- (8) Operating the facility in a manner that results in imminent danger to the public.
- (9) Submitting fraudulent documentation to the Department or a duly appointed agent thereof.

(e) In determining whether a penalty is to be imposed and in fixing the amount of the penalty to be imposed, if any, for a violation, the Director shall consider the following factors:

- (1) The gravity of the violation, including the probability that death or serious physical harm to the

public will result or has resulted; the severity of the actual or potential harm; and the extent to which the provisions of the applicable statutes or regulations were violated.

(2) The reasonable diligence exercised by the licensee and efforts to correct violations.

(3) Any previous violations committed by the licensee.

(4) The financial benefit to the facility for committing or continuing the violation.

Type "A" violations shall carry no penalty provided they are corrected within the terms set forth by this Act and in accordance with the rules established under this Act. Type "B" violations may be assessed a penalty of \$25 per day for each day the violation exists. Type "C" violations may be assessed a penalty of \$100 per day for each day the violation exists, in addition to any other penalties provided for by law.

(210 ILCS 125/15.2 new)

Sec. 15.2. Violations and civil penalties. The Department is empowered to assess civil penalties and sanctions for violations of this Act and the rules promulgated under this Act. Each day a violation exists shall constitute a separate violation.

(210 ILCS 125/16.1 new)

Sec. 16.1. Denial, suspension, or revocation of a license.

The Director, after notice and opportunity for a hearing to a party, may deny, suspend, or revoke a license or permit, or assess a civil penalty, in any case in which he or she finds that there has been a substantial failure to comply with the provisions of this Act or rules established under it. Notice shall be provided by certified mail, return receipt requested, or served personally and by fixing a date, not less than 15 days from the date of such mailing or service, at which time the applicant or license holder shall be given an opportunity to serve a written request for hearing upon the Department. The hearing shall be conducted by the Director or by an individual designated in writing by the Director as the Hearing Officer. On the basis of any such hearing, or upon default of the applicant or license holder, the Director shall make a determination specifying his or her findings and conclusions. A copy of the determinations shall be sent by certified mail, return receipt requested, or served personally upon the applicant or license holder.

(210 ILCS 125/21) (from Ch. 111 1/2, par. 1221)

Sec. 21. Closure of facility. Whenever the Department finds any violation of this Act or the rules promulgated under this Act, if the violation presents an emergency or risk to public health, the Department ~~the conditions hereinafter set forth it~~ shall, without prior notice or hearing, issue a ~~by~~ written notice, immediately order the owner, operator, or licensee to

close the swimming facility and to prohibit any person from using such facilities. Notwithstanding any other provisions in this Act, such order shall be effective immediately.†

~~(1) If conditions at a swimming facility and appurtenances, including bathhouse facilities, upon inspection and investigation by a representative of the Department, create an immediate danger to health or safety, including conditions that could lead to bather entrapment or entanglement; or~~

~~(2) When the Department, upon review of results of bacteriological analyses of water samples collected from a swimming facility, finds that such water does not conform to the bacteriological standards promulgated by the Department for proper swimming water quality; or~~

~~(3) When an environmental survey of an area shows evidence of sewage or other pollutational or toxic materials being discharged to waters tributary to a beach creating an immediate danger to health or safety; or~~

~~(4) When the Department finds by observation or test for water clarity of the swimming facility water a higher turbidity level than permitted in the standards for physical quality as promulgated by the Department; or~~

~~(5) When in such cases as it is required, the presence of a satisfactory disinfectant residual, prescribed by rule as promulgated by the Department, is absent.~~

The notice shall state the reasons prompting the closing of

the facilities and a copy of the notice must be posted conspicuously at the pool or beach by the owner, operator or licensee.

The State's Attorney and Sheriff of the county in which the swimming facility is located shall enforce the closing order after receiving notice thereof.

Any owner, operator or licensee affected by such an order is entitled, upon written request to the Department, to a hearing as provided in this Act.

When such violations ~~conditions~~ are abated ~~or when the results of analyses of water samples collected from the swimming facility,~~ in the opinion of the Department, ~~comply with the Department's bacteriological standards for acceptable water quality, or when the turbidity decreases to the permissible limit, or when the disinfectant residual reaches a satisfactory level as prescribed by rule,~~ the Department may authorize reopening the swimming facility ~~pool or beach. When sources of sewage, pollution, or toxic materials discovered as a result of an environmental survey are eliminated, the Department may authorize reopening of such beach.~~

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/23) (from Ch. 111 1/2, par. 1223)

Sec. 23. Applicability of Act. Nothing in this Act shall be construed to exclude the State of Illinois and Departments and educational institutions thereof and units of local government

except that the provisions in this Act for fees or late fees for licenses and permits, and the provisions for fine and imprisonment shall not apply to the State of Illinois, to Departments and educational institutions thereof, or units of local government. This Act shall not apply to beaches operated by units of local government located on Lake Michigan.

(Source: P.A. 92-18, eff. 6-28-01.)

(210 ILCS 125/15 rep.)

(210 ILCS 125/16 rep.)

Section 10. The Swimming Facility Act is amended by repealing Sections 15 and 16.

Section 99. Effective date. This Act takes effect upon becoming law.